

TESTIMONY OF BILL THOMAS,
CHAIRMAN OF THE COMMITTEE ON WAYS AND MEANS
Before the
RULES SUBCOMMITTEE ON TECHNOLOGY AND THE HOUSE
June 16, 2004

Chairman Linder, Ranking Member McGovern, and Subcommittee Members, thank you for inviting me to testify about committee jurisdiction and the Rules of the House generally. I have two important issues to address – 1) continued jurisdiction by the Committee on Ways and Means over customs activities in the Department of Homeland Security and 2) suggestions for improvements to Rule XI, Clause 2(j)(1) involving the right of the minority to demand a separate day of hearings.

Homeland Security. The Committee on Ways and Means has jurisdiction over all functions related to customs and collection of tariffs. The Committee's oversight of these issues dates back to the creation of this first agency of the federal government over 220 years ago designed to collect revenue and to ensure that imports flow smoothly across the border. Over the years, Customs has taken on many other functions because of its unique border presence, including protecting us from international terrorism. Accordingly, in the Homeland Security Act enacted in the 107th Congress, we made certain that the revenue collection and trade missions of the Customs Service would continue and not be diluted even though we combined Customs with other agencies to form a unified Department for the nation's security. It is a delicate but critical balance to maintain because both our security and the economic well-being of our country through trade are involved.

It is important that the Committee on Ways and Means continues to have jurisdiction over these revenue and trade functions and the people who administer them. The Committee on Ways and Means is focused on revenue collection,

international trade law and interaction, and trade facilitation, and we have the expertise to evaluate the trade activities of the Executive Branch in a world economic perspective. In contrast, the Committee on Homeland Security does not have the expertise to duplicate the Ways and Means Committee's competency on trade matters, and it does not make sense for the Committee on Homeland Security to develop an equivalent level of trade and economic expertise. Attached to my testimony is a list of examples of oversight activities conducted by the Ways and Means Committee over the Department of Homeland Security.

Security and our freedom are a balance, and balance can only occur when there is a structure for all interests to be involved in decision-making and oversight. Otherwise, there is a tendency for security interests to trump all other interests. For example, as you know, I was Chairman of the Committee on House Administration at the time of the Capitol shooting occurrence years ago. I know from first hand experience the security concerns people have after such a traumatizing incident, but after being told then of the need for draconian security measures, I observed that ultimately the safest course to take is always to close down completely. That, however, is not an option. We must strike the right balance of being free to go about our business while taking reasonable security precautions.

In the Homeland Security Act, Congress adopted a balanced approach on trade and security when creating the Department of Homeland Security. Crucial to that balance was the current House jurisdictional structure to ensure the Department continues to focus on the mission of trade facilitation and revenue collection. The right balance is for the current committees of jurisdiction to continue to oversee and legislate in the areas of their expertise while taking security interests into account.

Legislative authority is not necessary for the Committee on Homeland Security to accomplish its goals of overseeing the security actions of the Executive Branch. That can be accomplished through hearings and coordination with other committees. Also, past experience has proven the effectiveness of our current jurisdictional structure. This country has experienced security threats in the past; security concerns increase and decrease over the long term, but the current House structure of oversight and jurisdiction has functioned very well since the beginning. A permanent realignment in jurisdiction so soon after the creation of the Department of Homeland Security is not in order. The Committee on Homeland Security should continue as now to coordinate, observe, and assist committees of jurisdiction. I am strongly opposed to creating a committee with jurisdiction that would interfere with a structure that has been successful through a number of other threats to our security.

Rule XI, Clause 2(j)(1). This year the Committee on Ways and Means held a Rule XI, Clause 2(j)(1) hearing at the request of our minority Members during a majority-scheduled hearing on the issue of the Annual Report of the Medicare and Social Security Trustees. The minority Members properly made the request; we held the hearing, and the event led us to reexamine this rule in detail. We found several imbalances between what is expected of the majority in calling a hearing and what is expected of the minority that should lead this Committee to consider changes to Rule XI in order to rebalance the measure and diminish the opportunity for abuse.

First, it is important to note that there is no requirement under Rule XI for the minority to identify the witnesses it will call nor is there a limit to the number of witnesses. In contrast, Rule XI, Clause 2(g)(4) effectively requires the majority to identify witnesses before the hearing by requiring advanced written statements from

witnesses – another requirement not applicable to a minority witness hearing. If the majority proposed to hold a hearing without identifying who or how many witnesses would be at the hearing, there would be justifiable outrage. Before a hearing occurs, Members want to know about the witnesses, read their advanced statements, prepare questions, and develop arguments. That is true of both majority and minority Members. The Rules Committee should consider modifying Rule XI to redress this imbalance and require the minority to identify its witnesses and perhaps to set a limit on the number. This notice should occur before the majority is expected to schedule the additional day of hearings for the minority witnesses.

Second, the Rules Committee should examine the issue of the scope of the minority witness hearing day. We were advised by the Parliamentarian's office that the scope should be the initial hearing advisory scope plus all of the matters raised by Members throughout the initial hearing. As we all know, some Members use their five minutes in a hearing to discuss unrelated issues, which could be ruled to be not pertinent to the hearing's subject matter. In order to be accommodating, the chair of a committee will often allow great latitude toward Members in raising extraneous issues during a hearing. Yet, if a Member raises any issue at a hearing, then it potentially can be included in the scope of the minority witness hearing. That does not appear fair, appropriate, or within the spirit of the rule. The Rules Committee should consider setting reasonable boundaries on the scope of topics that can be raised in the Rule XI minority witness hearing to ensure that the intent of the rule is followed.

Thank you again for allowing me to testify, and please consider these comments when reviewing the House Rules for changes in the 109th Congress.

Committee on Ways and Means
Oversight of Homeland Security Department

- Coordination with the Administration to draft an Executive Order giving the Homeland Security Department general authority over Customs revenue functions but allowing the Treasury Department to retain final authority over regulations concerning Customs revenue functions, and the authority to review, modify, or revoke specified determinations or rulings.
- Markup and passage of the Miscellaneous Trade and Technical Corrections Act, legislation which makes significant changes to certain Customs rules.
- Passage of legislation to temporarily extend customs user fees, and examination of whether the level of such fees is commensurate with the level of services provided. Tracking the user fees in the new Department to ensure that they are used for commercial functions is required by our World Trade Organization obligations.
- Passage of legislation addressing textile transshipment, including allocation of funding for 70 new positions, travel, training, and outreach, and a GAO audit of textile transshipment monitoring.
- Oversight of highly technical customs classification decisions, based on the over 800-page Harmonized Tariff Schedule.
- Oversight of the development of the Automated Commercial Environment, which is designed to fully automate the process of moving goods across the border, a massive undertaking that will not be completed until 2007. The General Accounting Office has issued over a dozen reports on various aspects of this system.
- The Committee is holding a hearing on Customs-related issues on June 17, 2004, in preparation for our legislation to reauthorize Customs functions.